SUPREME COURT OF THE UNITED STATES.

No. 310.

THE PEOPLE OF THE STATE OF NEW YORK, EX REL. DAVID DAWS, PLAINTIFF IN ERROR,

vs.

THE COMMISSIONERS OF TAXES AND ASSESSMENTS FOR THE CITY AND COUNTY OF NEW YORK.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

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1 The answer of the judges of the court of appeals of the State of New York, in the within writ named, doth certify, under the seal of our said court, to the justices of the Supreme Court of the United States, at the Capitol in the city of Washington, and send the record whereof mention in said writ is made, with all things touching or in anywise concerning the same, as appears in a certain schedule to this writ annexed, as within it is commanded.

By the court.

[L. S.] C. H. YOUNG,
Deputy Clerk of the Court of Appeals of the State of New York.

2 UNITED STATES OF AMERICA, *ss.*:

The President of the United States of America to the court of appeals of the State of New York, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, before you or some of you, between the people of the State of New York, on the relation of David Dows, against the commissioners of taxes and assessments for the city and county of New York, a manifest error hath happened to the great damage of the said relator, David Dows, as is said and appears by his complaint: We, being willing that such error, if any hath been, shall be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein rendered, that then, under your seal, distinctly and
3 openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the first Monday of December, 1866, that the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein, to correct that error, what of right, and according to law and custom of the United States, ought to be done.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, the first Monday of December, in the year of our Lord one thousand eight hundred and sixty-five.

[L. S.] KENNETH G. WHITE,
4 *Clerk of the Circuit Court of the United States of America for the Southern District of New York in the Second Circuit.*

W. M. EVARTS,
Att'y for Plaintiff in Error.

5 OCT. 19, '66.

Allowed. S. NELSON,
Justice Sup. Ct. U. S.

6 UNITED STATES OF AMERICA, *to wit:*

To the commissioners of taxes and assessments for the city and county of New York, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the court of appeals of the State of New York, wherein the people of the State of New York, on the relation of David Dows, are plaintiffs, and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of
7 the said Supreme Court of the United States, this nineteenth day October, one thousand eight hundred and sixty-six.

S. NELSON,
Justice of the Supreme Court U. S.

W. M. EVARTS,
Att'y for Plff. in Error.

Due and proper service of the above citation, and of a copy of the writ of error in this action is admitted.

RICH'D O'GORMAN,
Counsel to the Corp'n.

New York, October 23, 1866.

8 Supreme Court of the United States.

THE PEOPLE OF THE STATE OF NEW YORK, on the relation of David Dows, *vs.* THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York.	In error.

Know all men by these presents, that we, George I. Seney, of the city of Brooklyn, the county of Kings, in the State of New York, and Paschal W. Turney, of the city, county, and State of New York, are held and firmly bound unto the above-named the commissioners of taxes and assessments for the city and county of New York, in the sum of one thousand dollars, to be paid to the said defendants, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally by these presents. Sealed with our seals and dated the twelfth day of October, in the year one thousand eight hundred and sixty-six.

Whereas the above-named relator, David Dows, has present-
9 ed his writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above-entited suit in favor of the said commissioners of taxes and assessments of the city

and county of New York, by the court of appeals of the State of New York:

Now, therefore, the condition of this obligation is such, that if the above-named relator, David Dows, shall prosecute said writ of error to effect, and answer all damages and costs if he fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

[L. S.] GEO. I. SENEY.
[L. S.] P. W. TURNEY.
Sealed and delivered in the presence of—

SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

On this 12th day of October, 1866, personally appeared before me the undersigned, the above-named George I. Seney and P. W. Turney, the persons named in and who executed the foregoing instrument, and each acknowledged the execution of said instrument for the purposes mentioned in said instrument.

[SEAL.] CHAS. W. NEWTON,
United States Commissioner for the Southern District of N. Y.

10 UNITED STATES OF AMERICA,
Southern District of New York, ss:

George I. Seney and Paschal W. Turney, the above-named obligors, being duly sworn, do depose and say, each for himself, that he is a freeholder in the State of New York, and that he is worth the sum of two thousand dollars over and above all his just debts and liabilities.

GEO. I. SENEY.
P. W. TURNEY.

Sworn to this 12th day of October, 1866, before me.
CHAS. W. NEWTON,
United States Commissioner for the Southern District of N. Y.

OCT. 19, 1866.

Approved. S. NELSON, [L. S.]
Justice S. C. U. S.

11 The people of the State of New York to the commissioners of taxes and assessments for the city and county of New York, greeting:

We, being willing, for certain causes, to be certified of the proceedings, decision, and action had by and before you in the matter of the assessment for taxation by you lately made of David Dows, of the city of New York, upon the value, as personal property, of the shares of stock owned by him in the Corn Exchange Bank, in the city of New York, do command you that all and singular the said assessment made by you for the year 1866, and all and singular the

assessed valuation of such shares by you made in the annual record of the assessed valuation of real and personal estate, and in the tax and assessment roll, and all documents and papers relating thereto, and your decision and action thereon, and the application, affidavits, and claim of exemption presented to you by the said David Dows, and all things touching and concerning the said assessment, and all things touching the assessment made by you in the "annual record of the assessed valuation of real and personal estate," of the real estate owned by the said Corn Exchange Bank of the city of New York, assessed for taxation for the year 1866, and all things touching the assessment made by you for taxation of the Metropolitan Insurance Company upon personal estate for the year 1866, with your decision and action thereon, and upon any claim of exemption on the part of said company, by reason of the investment of any portion of its capital in the stocks, bonds, or other securities of the United States, and all things touching the assessment made by you for taxation for assessment upon personal property for the year 1866 of any
12 person whatever, whose claim of exemption from taxation by reason of his owning stocks, bonds, and other securities of the United States has been allowed by you, in whole or in part, as fully and entirely as the same remain before you, you send to our supreme court of judicature, at the City Hall, in the city of New York, on the 29th day of June, one thousand eight hundred and sixty-six, together with this writ, to the end that your decision and action in the matter of said assessment of the said David Dows may be reviewed and corrected on the merits by our said court, and that we may further cause to be done what of right shall be fit to be done.

Witness George G. Barnard, esq., justice of our said court, at the City Hall, in the city of New York, on the twenty-sixth day of June, one thousand eight hundred and sixty-six.

By the court.

[SEAL.] WM. C. CONNER, *Clerk.*

VARNUM & TURNEY,
Attorneys for Relator.

[Process] revenue stamp.

Indorsed: Allowed June 26, 1866.

G. G. BARNARD, *Justice.*

To the supreme court of the State of New York:

The petition of David Dows, of the city of New York, states that the petitioner is the owner of one hundred shares of the capital stock of the Corn Exchange Bank of the city of New York.

That said Corn Exchange Bank of the city of New York is a banking corporation, created under the laws of the State of New York, with a capital of one million of dollars, divided into ten
13 thousand shares of one hundred dollars each. That the said Corn Exchange Bank of the city of New York, on and prior to the twenty-fifth day of April, 1866, held and owned, and has ever

since held and owned, and still holds and owns, stocks, bonds, and other securities of the United States not subject to taxation by or under State authority to the amount of $776,650, in which the capital of the said bank to the said amount of $776,650 was, and ever since has been, and still is, invested; and said bank also holds and owns real estate in the city of New York, in which a portion of the capital of the said bank is invested, which has been assessed for the taxes of the year 1866, by the commissioners of taxes and assessments for the city and county of New York, in the "annual record of the assessed valuation of real and personal estate," in the sum of $105,000.

That the petitioner, on the twenty-sixth day of June, 1866, presented to the said commissioners of taxes and assessment for the city and county of New York an application claim of exemption and affidavits, of which the paper hereto annexed, marked A, is a copy.

That, as your petitioner is informed and believes, the said commissioners of taxes and assessments for the city and county of New York have assessed, and caused to be inserted in the "annual record of the assessed valuation of real and personal estate" by them made, and in the tax and assessment roll for the year 1866, the sum of $8,950, as the value of the said shares of stock in the said Corn Exchange Bank of the city of New York, so held by your petitioner, and have decided and determined that he shall be taxed on the amount so assessed, as the valuation of his personal property, and said commissioners have thus determined that your petitioner shall be assessed upon the full value of the said shares of stock, deducting therefrom only such sum as is in the same proportion to such value as is the assessed value of the real estate owned by the said bank.

That the said commissioners wholly decline and refuse to correct their said assessment of the personal property of the petitioner, and to strike the same from the said annual record of the assessed valuation of real and personal estate, and from the tax and assessment roll; and they also refuse to strike from the sum so assessed to your petitioner as aforesaid, and from the said annual record of the assessed valuation of real and personal estate, and from the tax and assessment roll, so much of the value of the said shares of stock as is in the same proportion to such value, as is the amount of the stocks, bonds, and other securities of the United States in which the capital of the said bank is invested to the whole amount of the capital stock of said bank, but insist that your petitioner is liable to such taxation in the said sum of $8,950 for personal estate, and is bound to pay taxes on the same, notwithstanding a large portion of the capital stock of the said bank is invested in the stocks, bonds, and other securities of the United States, as aforesaid.

14

The petitioner further states that, as he is advised and believes, he is not liable to be taxed on the value of the said shares of stock, as personal property, in any sum whatever, or, if at all, at a greater rate than is assessed upon any other moneyed capital in the handsof other individuals or corporations in this State.

That the assessment so made by the said commissioners against the petitioner, and entered in the said "annual record of the assessed

valuation of real and personal estate," for the year 1866, is at a greater rate than is assessed upon other moneyed capital in the hands of individuals and corporations in the State of New York. That the said commissioners of taxes and assessments, in assessing insurance companies created under the laws of this State, and other individuals for the taxes of 1866, have assessed such State corporations and other individuals, respectively, upon the excess only of their capital or personal estate liable to taxation over the amount of stocks, bonds, and other securities of the United States held by them, and have so discriminated in their assessment of said taxes and in their "annual record of the assessed valuation of real and personal estate" for the year 1866, in favor of the said State corporations and other
15 individuals. That the Metropolitan Insurance Company, a corporation created under the laws of the State of New York, with a capital of $1,000,000, and located in the first ward of the city of New York, is assessed in the said "annual record of assessed valuation of real and personal estate" of the said commissioners, for the taxes of the year 1866, in but the sum of $392,492, being the amount of the capital of said company, and its taxable surplus profits, after deducting therefrom the whole amount of stocks, bonds, and other securities of the United States held and owned by said company.

Your petitioner therefore prays that a writ of certiorari may be issued and allowed by this court, directed to said commissioners, requiring them to certify and return to this court all and singular their proceedings in the premises, and the documents and papers before them touching or concerning the same, and that the said decision and action of the said commissioners in assessing your petitioner may be reviewed and corrected on the merits by this court, and that the aforesaid errors of said commissioners may be corrected according to law, or that your petitioner may have such other or further relief in the premises as may be meet.

DAVID DOWS.

VANRNUM & TURNEY,
Attorneys for Petitioner.

CITY AND COUNTY OF NEW YORK, *ss:*

David Dows, the above-named petitioner, being duly duly sworn, saith that the foregoing petition is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

DAVID DOWS.

Sworn this 26th day of June, 1866, before me,

ROBERT OWEN,
Notary Public, New York.

16 A.

To the commissioners of taxes and assessments for the city and county of New York:

The application of David Dows, of the city of New York, represents that the applicant is assessed in "the annual record of the assessed valuation of real and personal estate" for the taxes of the year 1866, in the city of New York, upon personal estate in the sum of $8,950, as the owner of one hundred shares of the capital stock of the Corn Exchange Bank, of the city of New York, being the par value of such stock, after deducting therefrom such sum as is in the same proportion to such value as is the assessed value of the real estate owned by the said bank to the whole amount of the capital stock of said bank; that the said Corn Exchange Bank of the city of New York is a banking corporation, created under the laws of the State of New York, with a capital of one million of dollars, divided into ten thousand shares of one hundred dollars each; that the said Corn Exchange Bank of the city of New York, on and prior to the twenty-third day of April, 1866, held and owned, and has ever since held and owned, stocks, bonds, and other securities of the United States not subject to taxation by or under State authority, to the amount of $776,650, in which the capital of the said bank to the said amount of $776,650 was, and ever since has been, and still is, invested; and said bank also owns and holds real estate in the city of New York which has been assessed for the taxes of the year 1866 in the said "annual record of the assessed valuation of real and personal estate."

The applicant further states that the assessment so made against him by the said commissioners, and entered in the said "annual record of the assessed valuation of real and personal estate" for the year 1866, is at a greater rate than is assessed upon other moneyed capital in the hands of individuals in the State of New York; that the said commissioners of taxes and assessments, in assessing insurance corporations created under the laws of this State, and

17 other individuals, for the taxes of the year 1866, have assessed such State corporations and other individuals respectively, in their said "annual record of the assessed valuation of real and personal estate," upon the excess only of the capital or personal estate of such State corporations and other individuals liable to taxation over the amount of stocks, bonds, and other securities of the United States held by them, and said commissioners have so discriminated in their assessment of said taxes in favor of the said State corporations and other individuals; that the Metropolitan Insurance Company, a corporation created under the laws of the State of New York, with a capital of one million of dollars, and located in the first ward of the city of New York, is assessed in the said "annual record of the assessed valuation of real and personal estate" of the said commissioners for the year 1866 in but the sum of $392,492, being the amount of the capital of said company, and its taxable surplus profits, after deducting from such capital and surplus the whole

amount of stocks, bonds, and other securities of the United States held and owned by said company.

The applicant therefore claims:

1. That he is not liable to be assessed or taxed, in the valuation of his personal estate for the year 1866, upon any shares of stock of the said Corn Exchange Bank of the city of New York.

2. That if he is liable to be taxed upon any shares of such stock, as personal estate, in any sum whatever, he can only be assessed or taxed upon the value of such shares, after deducting from such value such sum as is in the same proportion to such value as is the assessed value of the real estate of said bank, together with the sum of $776,650, the amount of the stocks, bonds, and other securities of the United States, in which the capital of said bank is invested, to the whole amount of the capital stock of said bank.

3. That the said assessment of said commissioners of taxes and assessments against the applicant, and their entry of the same in
18 "the annual record of the assessed valuation of real and personal estate" are erroneous and illegal and void.

DAVID DOWS.

Dated New York, June 26, 1866.

CITY AND COUNTY OF NEW YORK, *ss:*

David Dows, the above-named applicant, being sworn, saith that he believes the facts stated in the above application to be true.

DAVID DOWS.

Sworn this 26th day of June, 1866, before me.

ROBERT OWEN,
Notary Public, New York.

[5-cent revenue stamp.]

CITY AND COUNTY OF NEW YORK, *ss:*

W. A. Falls, being sworn, saith that he is the cashier of the Corn Exchange Bank, in the city of New York, and that said bank, on the twenty-third day of April, 1866, held and owned, and still holds and owns, stocks, bonds, and other securities of the United States not subject to taxation by or under State authority, to the amount of $776,650, in which the capital of the said bank was, and ever since has been, and still is, invested.

W. A. FALLS, *Cashier.*

Sworn this 26th day of June, 1866, before me.

ROBERT OWEN,
Notary Public, New York.

[5-cent revenue stamp.]

To the supreme court of the State of New York:

We, the undersigned, commissioners of taxes and assessments for the city and county of New York, pursuant to a writ of certiorari to us directed, and hereto annexed, do certify and return:

19 That we, the said commissioners, did, after the 2d May, 1866, and before the 1st day of June, 1866, assess the relator, David Dows, for the current year on the value of one hundred shares then held by him of the stock of the Corn Exchange Bank, in the city of New York, a bank organized under and pursuant to the acts of the legislature of the State of New York in that behalf made and provided.

That in making the said assessment we valued the said shares respectively at the par value thereof, that is to say, the sum of one hundred dollars for each share, and deducted from such value of each share thus ascertained the sum of $10 50, which sum is in the same proportion to such assessed value of each share as is the assessed value of the real estate of said bank to the whole amount of the capital stock of said bank.

That between the first day of May, 1866, and the first day of June, 1866, we entered upon the books of the record of assessed valuation of personal estate for the year 1866, hereinafter mentioned, the sum of $8,950, as the amount for which said relator should be assessed as the holder of said shares.

That in estimating and assessing the value of the said shares, no allowance or deduction was made for or on account of any investment of any portion of the capital stock of the said bank, in the stocks, bonds, and securities of the United States.

That insurance companies created under the laws of the State of New York, and doing business in the said city of New York, were respectively assessed for the taxes of the year 1866, upon the balance or residue only of their capital and surplus profits liable to taxation, after making such deductions therefrom as are required by the laws of said State, and after deducting also therefrom the amount of bonds and other securities of the United States declared by the Congress of the United States to be exempt from taxation by or under State or municipal authority.

That the Metropolitan Insurance Company, one of such com-
20 panies doing business in the city of New York, and having a capital of $1,000,000, was assessed for the taxes of 1866 only upon $392,402, being the balance or residue of the capital and surplus profits liable to taxation of such company after deducting therefrom the amount of bonds and other securities of the United States declared by the Congress of the United States to be exempt from taxation by or under State or municipal authority.

That for the purpose of taxation for the said year for and in respect to their personal estate other than the shares of any bank or banking association held by them, individuals were respectively assessed only to the amount of their said personal estate, after deducting such part thereof as was invested in such bonds and other securities of the United States as last before specified.

We further certify and return that, as required by law, we keep in our office books called "the annual record of assessed valuation of real and personal estate," and that one of the said books for the current year relates to and contains the valuation of real estate, and the

other of them for the current year relates to and contains the valuation of personal estate, and that in said books was entered the assessed valuation of such property within the city and county aforesaid, and that the name of the said relator was entered in the last-mentioned book which relates to personal estate, and also in the last-mentioned book which relates to real estate, as liable to be assessed in respect to and on account of said real and personal estate.

That the said books for the current year were kept open for examination and correction from the second Monday of January, 1866, until the first day of May, 1866, and notice thereof was given as required by law.

That the said assessment required by law to be made for and in respect to the shares of stock of bank and banking associations were in the manner aforesaid, and as hereinafter specified, included in the valuation of the personal property of the party who held the said shares respectively at the time of making the said assessment.

21 That the assessment rolls for the current year, which we are required by the laws of said State to deliver to the supervisors of said city and county of New York, are not yet completed, but will in due time and order be completed and so delivered; and that such assessment rolls are being so prepared that, when so delivered, the said shares of the said relator will be included in the valuation of the personal property of said relator in the assessment of taxes at the ward hereinafter mentioned.

That the said shares of stock held by the said relator and for and in respect to which he is assessed as aforesaid, were, and will be in a manner herein specified, included in the valuation of the personal property of said relator in the assessment, for the purpose of taxation in the ward in which said bank is located, to wit, in the first ward of the city of New York.

That after having so made the said assessments upon the said relator and the other shareholders of banks and banking associations, for the purpose of taxation of their respective shares for the year 1866, we caused notice thereof to be given to the said relator and other shareholders, and also that the said assessment might be inspected, revised, and corrected at any time before the 30th June, 1866.

That the said relator since the first of June, 1866, conformably to such notice, objected to the assessment aforesaid, on the ground that in so estimating and assessing the value of said shares no allowance or deduction was made for or on account of any investment of any portion of the capital stock of the said bank in the stocks, bonds, and securities of the United States, and requested us to strike off his name and the assessment so made upon him on account of said shares, or to correct the said assessed valuation, or to alter or modify the said assessment of said shares, and that we refused to modify or alter the said assessment in any respect.

That the said assessment of the said relator, and our action had in respect thereto, were made and had under and in pursuance of the

laws of the State of New York relating to the assessment and
22 collection of taxes in the city and county of New York, and pursuant to the acts of the legislature of said State found and recorded in chapters 608 and 761 of the laws of said legislature for the year 1866.

In witness whereof, we, the said commissioners, have hereto subscribed our names and affixed our seals, at the city of New York, this 29th day of June, 1866.

[SEAL.] A. J. WILLIAMSON.
[SEAL.] JONA. W. ALLEN.
[SEAL.] JNO. BROWN.

Supreme court.

THE PEOPLE, ex rel. ROBERT L. KENNEDY,
against
THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York.

THE PEOPLE, ex rel. DENNING DUER,
ag't
THE SAME.

THE SAME, ex rel. ABIEL A. LOW,
ag't
THE SAME.

23 THE SAME, ex rel. JOHN E. WILLIAMS,
ag't
THE SAME.

THE SAME, ex rel. W. R. KITCHEN,
ag't
THE SAME.

THE SAME, ex rel. DAVID DOWS,
ag't
THE SAME.

THE SAME, ex rel. JOSEPH W. GREEN and OTHERS,
ag't
THE SAME.

THE SAME, ex rel. PETER M. BRYSON and OTHERS,
ag't
THE SAME.

General term, June 29, 1866.

Present: Barnard, Ingraham, Sutherland, justices.

On reading and filing the petition of the several relators with

24 the certioraris and also returns of the commissioners of taxes and assessments for the city and county of New York, to each of the certioraris issued in the above cases respectively, and after hearing counsel for the said relators and for the said commissioners of taxes and assessments, it is adjudged that the relators are not entitled to the relief demanded, and it is ordered that the action and decision of the commissioners in the said cases, and each of them, be, and the same are hereby, confirmed.

A copy.

WM. C. CONNER, *Clerk.*

At a general term of the supreme court of the State of New York, at the city of New York, on the 29th day of June, 1866.

Present: Hon. Geo. G. Barnard, P. J.; Hon. Josiah Sutherland, Hon. Thomas W. Clerke, justices.

THE PEOPLE, ex rel. DAVID DOWS,
against
THE COMMISSIONERS OF TAXES AND assessments for the city and county of New York.

This matter having been heard upon the certiorari and return thereto, and counsel for the relator and for said commissioners having been heard:

On motion of Richard O'Gorman, of counsel for said commissioners, it is ordered, adjudged, and decreed that the proceedings and determinations of the said commissioners in the assessment of the said relator be, and the same are hereby, affirmed, and in all respects held valid.

A copy.

WM. C. CONNER, *Clerk.*

25 Supreme court, county of New York.

THE PEOPLE, on the relation of DAVID DOWS,
against
THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York.

GENTLEMEN: Take notice that the relator, David Dows, appeals to the court of appeals from the order or judgment made at a general term, on the twenty-ninth day of June, 1866, in the above-entitled action or proceeding, adjudging that the relator is not entitled to the relief demanded, and ordering that the action and decision of the commissioners of taxes and assessments for the city and county of New York, in the relator's case, be confirmed.

New York, August 24, 1866.

VARNUM & TURNEY,
Attorneys for Relators.

To W. C. CONNER, Esq., *Clerk.*
" R. O. GORMAN, Esq.,
Attorney for the Commissioners of Taxes and Assessments.

STATE OF NEW YORK, *City and County of New York, ss:*

I, William C. Conner, clerk of the supreme court of said State in and for said city and county, do hereby certify that the preceding consists of certified copies of the notice of appeal, the order appealed from, and the papers on which the court below acted in making such order.

In witness whereof I have hereunto subscribed my name and affixed my official seal, this 27th day of August, 1866.

[L. S.] WM. C. CONNER, *Clerk.*

26 In the court of appeals.

THE PEOPLE, on the relation of DAVID DOWS, appellant,
against
THE COMMISSIONERS OF TAXES and ASSESSMENTS for the city and county of New York, respondents.

CITY AND COUNTY OF NEW YORK, *ss:*

Paschal W. Turney, one of the attorneys for the appellant, being sworn, saith that no opinion was given by the general term of the supreme court upon the rendition of the judgment herein.

P. W. TURNEY.

Sworn, this 30th day of August, 1866, before me.

ROBERT OWEN,
Notary Public, New York.

27 At a term of the court of appeals of the State of New York, held at the capitol in the city of Albany, on the sixth day of October, 1866.

Present: Hon. Henry E. Davies, chief judge, presiding.

THE PEOPLE OF THE STATE OF NEW YORK, on the relation of David Dows, appellants,
ag't
THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York, respondents.

The appeal in this cause having been argued by Mr. William M. Evarts, of counsel for the relator, David Dows, appellant, and by Mr. Charles O'Conor and Mr. Richard O'Gorman, of counsel for the defendants, respondents, and due deliberation being had thereon, it is ordered that the judgment of the supreme court appealed from be, and the same is hereby, in all things affirmed, with costs to the defendants, respondents.

And the relator, David Dows, having claimed exemption from the taxation mentioned in the record in this cause, under and by virtue of the eighth section of article 1 of the Constitution of the United States, and also under and by virtue of the second section

of the act of Congress entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862, and also under and by virtue of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide ways and means for the support of the government,'" approved March 3, 1863; and also by virtue of the provisions of an act of Congress entitled "An act to provide a national currency secured by a pledge of the United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863; and also by virtue of the provisions of an act of Congress entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; and the several acts of Congress additional to and amendatory thereof, on the ground that the capital stock of said bank in that respect mentioned in said record is invested in the public debt of the United States; also on the ground that said tax is prohibited by said section 8, article 1, of the Constitution of the United States; also on the ground that the said tax is prohibited by the provisions of the several acts of Congress before mentioned; also on the ground that said tax is prohibited by the Constitution and laws of the United States; and also on the ground that said tax is at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of the State of New York; and on the ground that the assessment in the record complained of was not made in conformity with the laws of the State of New York, nor with the acts of Congress before mentioned. And the validity of the authority claimed by said respondents under the provisions of an act of the legislature of the State of New York entitled "An act authorizing the taxation of stockholders of banks, and the surplus funds of savings banks," passed April 23, 1866, to impose the tax mentioned in the said record, being drawn in question, it is certified that the judgment of this court is against the said relator, David Dows, the appellant, and is against the exception, right, privilege, or exemption claimed by him under and by virtue of said provisions of the Constitution of the United States and the several acts of Congress before referred to, and in favor of the validity of such statute of New York State, and the construction of the 8th section of article 1 of the Constitution of the United States, and of the several acts of Congress before mentioned being drawn in question; it is further certified that the judgment of this court is against the right, privilege, exception, or exemption, specially claimed by said relator, David Dows, the appellant, under said section of the Constitution of the United States and the several acts of Congress before mentioned.

A copy.

C. H. YOUNG,
Deputy Clerk of the Court of Appeals of the State of New York.

Filed October 6, 1866.

30 Supreme Court of the United States.

THE PEOPLE OF THE STATE OF NEW YORK, on the relation of David Dows, plaintiffs in error,
against
THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York, defendants in error.
} In error.

Of the term of December, in the year one thousand eight hundred and sixty-six.

Afterwards, to wit, on the first Monday of this same term, before the justices of the Supreme Court of the United States at Washington, in the District of Columbia, come the people of the State of New York, on the relation of David Dows, by William M. Evarts, their attorney, and say that on the record and proceedings aforesaid, and also in giving the judgment aforesaid, is manifest error in this,
31 to wit, that the relator, David Dows, is entitled to exemption from the taxation mentioned in the record in this cause under and by virtue of the eighth section of article 1 of the Constitution of the United States; and also under and by virtue of the second section of the act of Congress entitled "An act to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862; and also under and by virtue of an act of Congress, entitled "An act supplementary to an act entitled An act to provide ways and means for the support of the government," approved March 3, 1863; and also by virtue of the provisions of an act of Congress, entitled "An act to provide a national currency secured by a pledge of the United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863; and also by virtue of the provisions of an act of Congress, entitled "An act to provide a national currency secured by a pledge of United States bonds,
32 and to provide for the circulation and redemption thereof," approved June 3, 1864, and the several acts of Congress additional to and amendatory thereof, on the ground that the capital stock of said bank in that respect mentioned in said record, is invested in the public debt of the United States; also on the ground that said tax is prohibited by said section 8, article 1, of the Constitution of the United States; also on the ground that the said tax is prohibited by the provisions of the several acts of Congress before mentioned; also on the ground that the said tax is prohibited by the Constitution and laws of the United States; and also on the ground that said tax is at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of the State of New York; and on the ground that the assessment on the record complained of was not made in conformity with the laws of the State of New York, nor with the
33 acts of Congress before mentioned. And also on the ground that the said commissioners of taxes and assessments had no right or authority under the provisions of an act of the legislature of the State of New York, entitled "An act authorizing the taxation of

28 of the act of Congress entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862, and also under and by virtue of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide ways and means for the support of the government,'" approved March 3, 1863; and also by virtue of the provisions of an act of Congress entitled "An act to provide a national currency secured by a pledge of the United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863; and also by virtue of the provisions of an act of Congress entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; and the several acts of Congress additional to and amendatory thereof, on the ground that the capital stock of said bank in that respect mentioned in said record is invested in the public debt of the United States; also on the ground that said tax is prohibited by said section 8, article 1, of the Constitution of the United States; also on the ground that the said tax is prohibited by the provisions of the several acts of Congress before mentioned; also on the ground that said tax is prohibited by the Constitution and laws of the United States; and also on the ground that said tax is at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of the State of New
29 York; and on the ground that the assessment in the record complained of was not made in conformity with the laws of the State of New York, nor with the acts of Congress before mentioned. And the validity of the authority claimed by said respondents under the provisions of an act of the legislature of the State of New York entitled "An act authorizing the taxation of stockholders of banks, and the surplus funds of savings banks," passed April 23, 1866, to impose the tax mentioned in the said record, being drawn in question, it is certified that the judgment of this court is against the said relator, David Dows, the appellant, and is against the exception, right, privilege, or exemption claimed by him under and by virtue of said provisions of the Constitution of the United States and the several acts of Congress before referred to, and in favor of the validity of such statute of New York State, and the construction of the 8th section of article 1 of the Constitution of the United States, and of the several acts of Congress before mentioned being drawn in question; it is further certified that the judgment of this court is against the right, privilege, exception, or exemption, specially claimed by said relator, David Dows, the appellant, under said section of the Constitution of the United States and the several acts of Congress before mentioned.

A copy.

C. H. YOUNG,

Deputy Clerk of the Court of Appeals of the State of New York.

Filed October 6, 1866.

30 Supreme Court of the United States.

THE PEOPLE OF THE STATE OF NEW YORK, on the relation of David Dows, plaintiffs in error,
against
THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York, defendants in error.
} In error.

Of the term of December, in the year one thousand eight hundred and sixty-six.

Afterwards, to wit, on the first Monday of this same term, before the justices of the Supreme Court of the United States at Washington, in the District of Columbia, come the people of the State of New York, on the relation of David Dows, by William M. Evarts, their attorney, and say that on the record and proceedings aforesaid, and also in giving the judgment aforesaid, is manifest error in this,
31 to wit, that the relator, David Dows, is entitled to exemption from the taxation mentioned in the record in this cause under and by virtue of the eighth section of article 1 of the Constitution of the United States; and also under and by virtue of the second section of the act of Congress entitled "An act to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862; and also under and by virtue of an act of Congress, entitled "An act supplementary to an act entitled An act to provide ways and means for the support of the government," approved March 3, 1863; and also by virtue of the provisions of an act of Congress, entitled "An act to provide a national currency secured by a pledge of the United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863; and also by virtue of the provisions of an act of Congress, entitled "An act to provide
32 a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and the several acts of Congress additional to and amendatory thereof, on the ground that the capital stock of said bank in that respect mentioned in said record, is invested in the public debt of the United States; also on the ground that said tax is prohibited by said section 8, article 1, of the Constitution of the United States; also on the ground that the said tax is prohibited by the provisions of the several acts of Congress before mentioned; also on the ground that the said tax is prohibited by the Constitution and laws of the United States; and also on the ground that said tax is at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of the State of New York; and on the ground that the assessment on the record complained of was not made in conformity with the laws of the State of New York, nor with the
33 acts of Congress before mentioned. And also on the ground that the said commissioners of taxes and assessments had no right or authority under the provisions of an act of the legislature of the State of New York, entitled "An act authorizing the taxation of

stockholders of banks and the surplus funds of saving banks," passed April 23, 1866, to impose the tax mentioned in said record. There is also error in this, to wit, that by the record aforesaid, it appears that the judgment aforesaid, in form aforesaid, was given for the said commissioners of taxes and assessments for, the city and county of New York, against the said relator, David Dows, whereas by the law of the land the said judgment ought to have been given for the said relator, David Dows, against the said commissioners of taxes and assessments for the city and county of New York.

And the said people of the State of New York, on the relation of David Dows, pray that the judgment aforesaid for the errors aforesaid, and other errors in the record and proceedings aforesaid,
34 may be reversed, annulled, and altogether held for nothing, and that the relator, David Dows, may be restored to all things which he hath lost by occasion of the said judgment, &c.

WM. M. EVARTS,
Attorney for Plaintiffs in Error.

35 Due service of a copy of the within admitted.
November 24, 1866.

RICH'D O'GORMAN,
Counsel to the Corp'n.

Filed 27 November, 1866.

Joinder in error.

36 Supreme Court of the United States.

THE PEOPLE OF THE STATE OF NEW YORK, on the relation of David Dows, plaintiffs in error,
agt.
THE COMMISSIONERS OF TAXES AND ASSESSMENTS for the city and county of New York, defendants in error.

Of the term of December, in the year one thousand eight hundred and sixty-six.

And hereupon, afterwards, to wit, on the first Monday of December, in the year of our Lord one thousand eight hundred and sixty-six, before the justices of the Supreme Court of the United States at Washington, in the District of Columbia, come the commissioners of taxes and assessments for the city and county of New York, by Richard O'Gorman, their attorney, and say that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid, and he prays that the court now here may proceed to examine as well the record and proceedings aforesaid as the
37 matters above assigned for error, and that the judgment aforesaid given may be in all things affirmed, &c.

RICHARD O'GORMAN,
Attorney for Defendants in Error.

Filed 28 November, 1866.